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bonds recited the condition on which they were issued and was recorded before the interveners became creditors of the corporation. *Held*, that the interveners were creditors with notice and could not claim priority over the bondholders. *First Trust Co. v. Illinois Cent. R. Co.* (1919, C. C. A. 8th) 256 Fed. 830.

This decision conforms to the American rule that corporations have the implied power to acquire their own stock in good faith and without injury to creditors or minority stock holders. See an illuminating article discussing both the American doctrine and the English rule which is *contra*. (1915) 24 YALE LAW JOURNAL, 177.

CORPORATIONS—PRIVATE CORPORATIONS—REINSTATEMENT AFTER FORFEITURE—LIABILITY OF DIRECTORS.—A New Jersey corporation failed to pay a certain tax for two successive years and in accordance with a state statute the Governor proclaimed that it had forfeited all powers conferred upon it by law. The corporation continued to do business and purported to enter into a contract with the plaintiff. The Governor later reinstated the corporation under authority of another statute. The plaintiffs sought to hold the defendants, directors of the corporation, personally liable on the contract made during the *interim* between proclamations of forfeiture and reinstatement. They contended that the corporation was not existent during this time. *Held* (Rogers, J. *dissenting*), that the corporation was at least *de facto* during the period before reinstatement, as otherwise the act of the Governor would have been an attempt to *create* a new corporation, which was beyond the intent and power of the legislature. *Held v. Crosthwaite* (C. C. A. 2d) Oct. Term, 1918, July, 1919.

For a discussion of this case and the principles involved in which conclusions are reached in accord with the majority of the court, see (1919) 28 YALE LAW JOURNAL, 604.

CRIMINAL LAW—NEW TRIAL—DISORDER AND EXCITEMENT.—The accused, a negro, was on trial for rape. Before the conclusion of the trial, while he was being taken from the courthouse to jail, a large and menacing crowd attempted to capture him and during the night renewed their efforts by attacking the jail. Prompted by fear and the immediate danger of being lynched, the accused escaped and was not captured until two days later. Although court was adjourned in the *interim*, the jury were kept together and the trial was resumed upon the re-arrest. It was deemed necessary to guard the courthouse with state militia and several hundred volunteer deputy sheriffs, through a picket line of whom the jury passed upon entering and leaving the court-room. The refusal of the trial court to grant the motion of counsel for the accused for a continuance was assigned as error. *Held*, that the refusal of the court to grant the motion constituted an abuse of discretion, as the facts disclosed an atmosphere and environment incompatible with the right to a fair and impartial trial. *Fountain v. State* (1919, Md.) 107 Atl. 554.

The decision is certainly sound in principle and serves to strengthen one's faith in law administered by courts unshaken by public clamor. *People v. Fleming* (1913) 166 Calif. 357, 136 Pac. 291; *Capps v. State* (1913) 109 Ark. 193, 159 S. W. 193; *State v. Weldon* (1912) 91 S. C. 29, 74 S. E. 43. Unhappily, a ready recognition of the true principle does not always betoken the correct result. *Cf. Frank v. State* (1914) 142 Ga. 741, 83 S. E. 645.

DAMAGES—"DUTY" TO MITIGATE.—The plaintiff sold flour to the defendant, a baker. The defendant found the flour to be bad, but used it to supply the daily